

RICHARD CHARLES HAWKINS, JR.,)
)
Petitioner, **)**
)
vs. **)** **Case No. CIV-15-106-R**
)
UNITED STATES OF AMERICA, **)**
)
Respondent. **)**

On January 29, 2015, the Clerk of the Court received, presumably, two copies of Petitioner’s “Motion to Amend the Courts Sentencing Order and or a Nunc Pro Tunc Order Designignating [sic] the Bureau of Prisons to Correct the Starting Date of Petitioners Federal Sentence.” Doc. 1; CR-09-24-M, Doc. 229. Per Petitioner’s case number designation, the Clerk filed the motion in Petitioner’s federal criminal case, CR-09-24-M, Doc. 229, and Chief United States District Court Judge Vicki Miles-LaGrange has ordered the government to respond to the motion. *Id.*, Doc. 230.

In what can only be assumed to be a docketing error, the Clerk of the Court also used Petitioner's motion to create the underlying cause of action. Doc. 1. The motion, described on the docket as a petition for writ of habeas corpus, *see id.*, was assigned to United States District Court Judge David L. Russell, and he in turn referred the matter to the undersigned Magistrate Judge for initial proceedings pursuant to 28 U.S.C. § 636(b)(1)(B), (C). Doc. 3.

Under the circumstances, the undersigned recommends that the court dismiss this action, CIV-15-106-R, as duplicative.

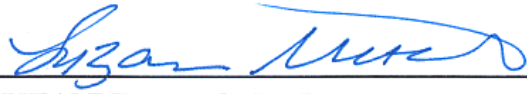
I. Recommendation and Notice of Right to Object.

It appears to the undersigned that the underlying cause of action was filed in error, and Chief United States District Court Judge Vicki Miles-LaGrange is addressing Petitioner's motion in his federal criminal case, CR-09-24-M. So, the undersigned recommends that the court dismiss this action, CIV-15-106-R, as duplicative. Adoption of this recommendation will moot the undersigned's two orders seeking to have Petitioner either pay the filing fee or submit an application for leave to proceed in forma pauperis. *Id.*, Docs. 4, 5.

The undersigned advises Petitioner of his right to file an objection to the report and recommendation with the Clerk of this Court by April 26, 2015, in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). The undersigned further advises Petitioner that failure to make a timely objection to the report and recommendation waives the right to appellate review of both factual and legal questions contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This report and recommendation disposes of all issues referred to the undersigned Magistrate Judge in this matter.

ENTERED this 6th day of April, 2015.

A handwritten signature in blue ink, appearing to read "Suzanne Mitchell", is written over a horizontal line.

SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE